

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

CURTIS ELLIS,

Plaintiff,

v.

Case No. 08-CV-1021

MICHAEL J. ASTRUE,
Commissioner of Social Security,

Defendant.

ORDER

On November 26, 2008, pro se plaintiff Curtis Ellis ("Ellis") filed a complaint seeking judicial review of a final administrative agency decision denying him disability insurance benefits and supplemental security income. In addition to his complaint, Ellis also filed a motion for leave to proceed *in forma pauperis*. The court will grant Ellis' motion.

The federal *in forma pauperis* statute, 28 U.S.C. § 1915, is designed to ensure indigent litigants meaningful access to the federal courts. *Neitzke v. Williams*, 490 U.S. 319, 327 (1989). To authorize a litigant to proceed *in forma pauperis*, the court must first determine that the litigant is unable to pay the costs of commencing the action. 28 U.S.C. § 1915(a). Second, the court must determine that the action is neither frivolous nor malicious, does not fail to state a claim, and does not seek money damages against a defendant immune from such relief. 28 U.S.C. § 1915(e)(2). In making the latter determination, the court must give a *pro se*

plaintiff's allegations, "however inartfully pleaded," a liberal construction. *Haines v. Kerner*, 404 U.S. 519, 520 (1972).

The plaintiff submits an affidavit in which he declares under penalty of perjury that he has a monthly income of \$0 and incurs monthly expenses totaling \$0. Based upon this information, the court determines that the plaintiff is unable to pay the costs of commencing the instant action.

Liberally construing the plaintiff's allegations, the court also finds that the action is neither frivolous nor malicious, does not fail to state a claim, and does not seek money damages against a defendant immune from such relief. The court will, therefore, grant the plaintiff's motion for leave to proceed *in forma pauperis*.

The court warns the plaintiff, however, that he must serve a summons and complaint upon the defendant within 120 days after the filing of the complaint, see Fed. R. Civ. P. 4(m), or the court shall dismiss this action without prejudice.

Accordingly,

IT IS ORDERED that the plaintiff's motion for leave to proceed *in forma pauperis* (Docket #2) be and the same is hereby **GRANTED**.

Dated at Milwaukee, Wisconsin, this 16th day of December, 2008.

BY THE COURT:

A handwritten signature in black ink, appearing to read "J.P. Stadtmueller", is written over a horizontal line.

J.P. Stadtmueller
U.S. District Judge